

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOE NATHAN HOMER,

Plaintiff,

v.

CREEK COUNTY COURT,

Defendant.

No. C 07-80105-MISC PJH

**ORDER**

On April 23, 2007, plaintiff Joe Nathan Homer presented the complaint in this action to the Clerk's Office for filing. Because plaintiff has been declared a vexatious by a District Judge of this court, the matter was referred to the undersigned General Duty Judge for a determination whether plaintiff should be permitted to file the complaint.

The vexatious litigant order, which was filed on October 23, 2006, states that plaintiff shall seek leave of court to file "any new suit against the Bureau of Indian Affairs and the United States Department of the Interior," or to file "any new suit alleging that the defendant is or should be in possession of documents demonstrating that [p]laintiff or his ancestors have Native American blood."

As the court understands it, the present complaint alleges that in 1909, when plaintiff's father Emmet Homer was a minor, his land in Creek County, Oklahoma, was sold by his legally-appointed guardian James Miller. Plaintiff asserts that although Mr. Miller was ordered by the Creek County Court to pay Emmet Homer, Mr. Miller wrongfully

1 retained the proceeds. The complaint includes, as exhibits, various documents dating from  
2 2006 back to 1896.<sup>1</sup>

3 The court finds that the present complaint is not covered by the vexatious litigant  
4 order. Accordingly, the clerk shall file the complaint, and assign the case as any newly-filed  
5 matter is assigned.

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7 **IT IS SO ORDERED.**

8 Dated: May 2, 2007



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PHYLLIS J. HAMILTON  
United States District Judge

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27 <sup>1</sup> The court notes that plaintiff filed an action based on similar factual allegations on  
28 August 23, 2005. See Homer v. Creek County Court, Case No. C-05-3345 WHA. That case  
was dismissed on September 26, 2005.